

PUBLIC LAW 96-226—APR. 3, 1980

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Public Law 96-226  
96th Congress

## An Act

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

Apr. 3, 1980  
[H.R. 24]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Act of 1980".*

General  
Accounting  
Office Act of  
1980.  
31 USC note.

## TITLE I—GENERAL ACCOUNTING OFFICE PROVISIONS

## UNVOUCHERED EXPENDITURES

SEC. 101. Section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any provision of law which permits an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency, the Comptroller General shall have access to such books, documents, papers, records, and other information relating to any such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph may be superseded only by a provision of law enacted after the date of enactment of this paragraph which specifically repeals or modifies the provisions of this paragraph. In the case of an expenditure under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3), of title 3, United States Code, the provisions of sections 102, 103, 105(d), and 106(b) of such title shall govern the examination of such expenditures by the Comptroller General in lieu of the provisions of this subsection.

Access to records  
and information.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency and notwithstanding any provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the President or the head of the agency concerned or, in the case of unresolved discrepancies, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Committees of the House and the Senate having legislative or appropriations oversight with respect to the expenditure in question.

Officer or  
employee of  
GAO, disclosure  
of information,  
prohibition.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949.

50 USC 403.

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Foreign intelligence or counter-intelligence activities.

Exempted transactions, review.  
50 USC 403.

Report to congressional committees.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities, or sensitive law enforcement investigations if an audit proceeding pursuant to the provisions of paragraph (1) of this subsection would expose the identifying details of an active investigation or endanger the safety of investigative or domestic intelligence sources involved in such law enforcement investigations. An exemption under this subparagraph may be given for a class or category of financial transactions."

"(C) Information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949 and information concerning financial transactions exempted from the provisions of paragraph (1) pursuant to subparagraph (B) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

"(4) Not later than sixty days after the beginning of each fiscal year starting on or after October 1, 1980, the Director of the Office of Management and Budget shall submit to the chairman of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Comptroller General, a report listing every account potentially subject to audit by the Comptroller General under paragraph (1)."

#### ENFORCEMENT OF ACCESS TO RECORDS

SEC. 102. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph as subsection (a) and by adding at the end the following new subsections:

"(b)(1) When access to any books, documents, papers, or records of any department or establishment is not made available within a reasonable period of time, the Comptroller General in his discretion may make a written request to the head of the department or establishment concerned. Any such request shall set forth any authority in addition to subsection (a) for such access and the reasons such access is desired. The head of the department or establishment concerned shall have a period of twenty days from the date of receipt to respond to the written request of the Comptroller General. The response shall describe any books, documents, papers, or records withheld and the reasons therefor. If within such twenty-day period full access to such books, documents, papers, or records has not been afforded the Comptroller General or any of his designated assistants or employees, the Comptroller General may file a written report of the matter with the President of the United States, the Director of the Office of Management and Budget, the Attorney General, the head of the department or establishment concerned, and with the Speaker of the House of Representatives and the President of the Senate."

"(2) Subject to subsection (d) the Comptroller General, through any attorney designated by him in writing, may, after twenty calendar days after the filing of a written report under paragraph (1), apply to the United States District Court for the District of Columbia for any order requiring the head of the department or establishment concerned to produce the material withheld. The Attorney General is authorized to represent the defendant official in such proceedings."

Access to records, written request.

Report.

Material withheld, order to produce.

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Any failure to obey an order of the court und treated by the court as a contempt thereof.

"(c)(1) Subject to subsection (d), the Comptroller General may require by subpoena the production of books, memoranda, papers, and documents of confidential or other non-Federal persons to which he has no agreement of the non-Federal person from which the subpoena is issued. Subpoenas may be issued under the signature of the Comptroller General and shall identify the material sought, the person to whom access is based. Service of a subpoena which access is based on the production of material may be made by anyone authorized by the Comptroller General. (A) by delivering a copy thereof to the person served, or by mailing a copy thereof by certified or registered mail, addressed to such person at the place of business. A verified return by the Comptroller General setting forth the manner of service, by certified or registered mail, the return by the person so served, shall be proof of service."

"(2) In the case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection, by the Comptroller General, or transacts business within the United States, such court, upon application of the Comptroller General through any attorney, shall have jurisdiction to issue an order requiring such person to produce the material, and any such person to obey such order of the court as a contempt thereof."

"(d) The Comptroller General may issue a subpoena under subsection (b) for an order or issue a subpoena requiring the production of material—

"(1) if such material relates to foreign intelligence activities; or

"(2) if such material is specifically withheld from the Comptroller General by statute, or (A) requires that the material be withheld from the Comptroller General in such a manner as to leave the Comptroller General or refers to particular criteria for withholding from the Comptroller General."

"(3) if the President or the Director of the Office of Management and Budget within twenty days after the filing of a written report under subsection (b)(1), certifies in writing to the Comptroller General, the Speaker of the House of Representatives, the President of the Senate, that (A) the material is specifically withheld from the Comptroller General, or (B) the disclosure of such material to the Comptroller General would reasonably be expected to substantially injure the Federal Government. Such certification shall be by the President or by the Director of the Office of Management and Budget and shall be accompanied by a statement of the rationale therefor."

"(e) Any written information, books, documents, papers, or records made available to the Comptroller General shall be subject to the same level of protection as the material from which obtained. The General Accounting Office shall be

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Any failure to obey an order of the court under this subsection may be treated by the court as a contempt thereof.

"(c)(1) Subject to subsection (d), the Comptroller General may require by subpoena the production of books, records, correspondence, memoranda, papers, and documents of contractors, subcontractors, or other non-Federal persons to which he has access by law or by agreement of the non-Federal person from whom access is sought. Subpenas may be issued under the signature of the Comptroller General and shall identify the material sought and the authority on which access is based. Service of a subpoena issued under this subsection may be made by anyone authorized by the Comptroller General (A) by delivering a copy thereof to the person named therein, or (B) by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such person at his residence, or principal place of business. A verified return by the person so serving the subpoena setting forth the manner of service or in the case of service by certified or registered mail, the return post office receipt signed by the person so served, shall be proof of service.

Subpena of material.

"(2) In the case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Comptroller General through any attorney designated by him in writing, shall have jurisdiction to issue to such person an order requiring such person to produce the matter requested. Any failure of any such person to obey such order of the court may be treated by the court as a contempt thereof.

Refusal to obey subpoena.

"(d) The Comptroller General may not bring an action under subsection (b) for an order or issue a subpoena under subsection (c) requiring the production of material—

Exempted material.

"(1) if such material relates to activities designated by the President as being foreign intelligence or foreign counterintelligence activities;

"(2) if such material is specifically exempted from disclosure to the Comptroller General by statute provided that such statute (A) requires that the material be withheld from the Comptroller General in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding from the Comptroller General or refers to particular types of matters to be withheld from the Comptroller General; or

"(3) if the President or the Director of the Office of Management and Budget within twenty days after the filing of a report under subsection (b)(1), certifies in writing to the Comptroller General, the Speaker of the House of Representatives, and the President of the Senate, that (A) such material consists of matters which could be withheld from disclosure under section 552(b)(5) or 552(b)(7), of title 5, United States Code and (B) the disclosure of such material to the Comptroller General could reasonably be expected to substantially impair the operations of the Federal Government. Such certification shall be nondelegable by the President or by the Director of the Office of Management and Budget and shall be accompanied by a full explanation of the rationale therefor.

"(e) Any written information, books, documents, papers, or records made available to the Comptroller General pursuant to this section shall be subject to the same level of confidentiality as is required of the agency from which obtained. The officers and employees of the General Accounting Office shall be subject to the same penalties

Confidentiality of information.

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prescribed by statute for unauthorized disclosure or use as the officers or employees of the agency from which such material was obtained. Information described in section 552(b)(6) of title 5 of the United States Code obtained by the Comptroller General shall be maintained in a manner designed to prevent unwarranted invasions of personal privacy.

"(f) Nothing in this section shall be construed as authority to withhold information from Congress."

#### AVAILABILITY OF DRAFT REPORTS

SEC. 103. Section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53) is amended by adding at the end thereof the following new subsection:

"(f)(1) No portion of any draft report prepared by the General Accounting Office shall be submitted to any agency for comment thereon for a period in excess of thirty days unless the Comptroller General determines, upon a showing by such agency, that a longer period is necessary and is likely to result in improvement in the accuracy of such report.

"(2) Failure of an agency to return comments by the conclusion of the comment period established under paragraph (1) of this subsection shall not result in the delayed delivery of any such report.

"(3) Whenever an agency is requested to comment on a draft report, the Comptroller General shall—

"(A) in the case of any report initiated, pursuant to subsection (b) of this section or otherwise, at the request of either House of Congress or by any committee or member thereof, make such draft report available on request to such House, committee, or member; or

"(B) in the case of any other report, make such draft report available on request to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House.

"(4) The Comptroller General shall prepare and issue with the final version of any report of the General Accounting Office a statement of (A) any significant changes, from any prior drafts of such report, in the findings, conclusions, or recommendations which were based on an agency's comments on such a draft, and (B) the reasons for making such changes.

"(5) Procedures followed pursuant to this subsection shall be subject to statutory and Executive order guidelines for the handling and storage of classified information and material."

#### APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SEC. 104. (a) Section 302 of the Budget and Accounting Act, 1921 (31 U.S.C. 42) is amended by inserting "(a)" before "There" and by adding at the end thereof the following new subsection:

"(b)(1) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General or in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the vacant office. Any such commission shall consist of—

"(A) the Speaker of the House of Representatives,

"(B) the President pro tempore of the Senate,

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"(C) the majority and minority representatives and the Senate,

"(D) the chairman and rank members of the Committee on Government Operations and of the Committee on Governmental Affairs of the Senate, and

"(E) in the case of a vacancy in the Office of Comptroller General, the Comptroller General.

"(2) Any commission established under this subsection shall be referred to the President for consideration of the persons for the Office of Comptroller General. At his discretion, he may request that additional persons be added.

(b)(1) The first paragraph of section 302 of the Act is amended by striking out the first sentence thereof the following: "Except as otherwise provided, the Comptroller General shall hold office until the date on which a vacancy in the Office of Comptroller General may continue to be filled."

(2) The amendment made by paragraph (1) of this subsection shall apply to any person occupying the position of Deputy Comptroller General as of the date of enactment of this Act, but shall not apply to any person appointed to fill such position after the date of enactment of this Act.

#### TITLE II—CONFORMING AMENDMENTS TO THE ACT OF 1942 THE INSPECTORS GENERAL OF THE DEPARTMENT OF ENERGY AND HEALTH, EDUCATION AND WELFARE

##### AMENDMENT TO THE ACT OF 1942

SEC. 201. Section 203(b) of the Act of 1942 (42 U.S.C. 3523), is amended to read as follows:

"(b) In carrying out the responsibilities of the Inspector General shall—

"(1) comply with standards established by the General of the United States for the handling, storage, and disposal of records, documents, organizations, programs, and projects;

"(2) establish guidelines for determining the non-Federal auditors;

"(3) take appropriate steps to ensure that non-Federal auditors comply with the standards established by the Comptroller General as to the handling, storage, and disposal of records, documents, organizations, programs, and projects;

"(4) shall report expeditiously to the President whenever the Inspector General has determined that there has been a violation of Federal law or regulation."

##### AMENDMENT TO THE DEPARTMENT OF ENERGY AND HEALTH, EDUCATION AND WELFARE

SEC. 202. Section 208 of the Department of Energy and Health, Education and Welfare Act (42 U.S.C. 7138) is amended by adding the following new subsections:

"(h) In carrying out the responsibilities of the Inspector General shall—

(b)(1), the Inspector General shall—

Submission of  
draft report to  
agency for  
comment,  
exception.

Statement of  
changes.

Guidelines for  
handling and  
storage of  
classified  
information.

Commission.  
Establishment.

Membership.

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“(C) the majority and minority leaders of the House of Representatives and the Senate,

“(D) the chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

“(E) in the case of a vacancy in the Office of Deputy Comptroller General, the Comptroller General of the United States.

“(2) Any commission established under paragraph (1) shall submit to the President for consideration the names of not less than three persons for the Office of Comptroller General. The President, within his discretion, may request that additional names be submitted.”.

(b)(1) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: “Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.”.

Comptroller  
General and  
Deputy  
Comptroller  
General, terms  
of office.

(2) The amendment made by paragraph (1) shall not apply to the person occupying the position of Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such position occurring on or after such date, and shall apply to any person appointed to fill such a vacancy.

Nonapplicability.  
31 USC 43 note.

## TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH, EDUCATION, AND WELFARE

### AMENDMENT TO THE ACT OF OCTOBER 15, 1976

SEC. 201. Section 203(b) of the Act of October 15, 1976 (90 Stat. 2430; 42 U.S.C. 3523), is amended to read as follows:

“(b) In carrying out the responsibilities specified in subsection

(a)(1), the Inspector General shall—

“(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

“(2) establish guidelines for determining the appropriate use of non-Federal auditors;

“(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1); and

“(4) shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.”.

Report to  
Attorney  
General.

### AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 202. Section 208 of the Department of Energy Organization Act (42 U.S.C. 7138) is amended by adding at the end thereof the following new subsections:

“(h) In carrying out the responsibilities specified in subsection

(b)(1), the Inspector General shall—

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"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining the appropriate use of non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

"(i) In carrying out his duties and responsibilities under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(j) In carrying out his duties and responsibilities under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law."

Report to  
Attorney  
General.

Approved April 3, 1980.

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-425 (Comm. on Government Operations).

SENATE REPORT No. 96-570 accompanying S. 1878 (Comm. on Governmental Affairs).

#### CONGRESSIONAL RECORD:

-Vol. 125 (1979): Oct. 29, considered and passed House.

-Vol. 126 (1980): Feb. 28, considered and passed Senate, amended, in lieu of S. 1878.

Mar. 19, House concurred in Senate amendment.

#### WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 14 (1980): Apr. 3, Presidential statement.

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